

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TAMARA SWIANTEK on behalf of M.L.S.,

Plaintiff,

v.

DECISION AND ORDER
12-CV-1030

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. §636(b)(1)(B). Both plaintiff and defendant moved for judgment on the pleadings. On October 30, 2013 Magistrate Judge Scott issued a Report and Recommendation recommending that the decision of the Acting Commissioner of Social Security be affirmed, defendant's motion for judgment on the pleadings be granted, and plaintiff's motion for judgment on the pleadings be denied.

Plaintiff filed objections to the Report and Recommendation issued by the Magistrate Judge. Defendant filed a response on December 3, 2013 and plaintiff replied on December 29, 2013. The Court deemed the matter submitted without oral argument.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which

objections have been made. Upon *de novo* review, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion for judgment on the pleadings is granted and plaintiff's motion for judgment on the pleadings is denied.

The Clerk of the Court is instructed to close the case.

SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

Dated: January 29, 2014